

**EXECUTIVE SECRETARIAT**  
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*JRS*  
Executive Secretary  
7/11/84  
Date



THE SECRETARY OF THE TREASURY  
WASHINGTON 20220

July 10, 1984

Executive Registry

84-3069

MEMORANDUM FOR THE VICE PRESIDENT  
THE SECRETARY OF STATE  
THE SECRETARY OF DEFENSE  
THE ATTORNEY GENERAL  
THE SECRETARY OF AGRICULTURE  
THE SECRETARY OF COMMERCE  
DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET  
✓ DIRECTOR OF CENTRAL INTELLIGENCE  
UNITED STATES TRADE REPRESENTATIVE  
ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS  
ASSISTANT TO THE PRESIDENT & DEPUTY TO THE CHIEF  
OF STAFF  
ASSISTANT TO THE PRESIDENT FOR CABINET AFFAIRS  
CHAIRMAN, COUNCIL OF ECONOMIC ADVISORS  
ASSISTANT TO THE PRESIDENT FOR POLICY DEVELOPMENT

SUBJECT Senior Interdepartmental Group on  
International Economic Policy (SIG-IEP)

A meeting of the SIG-IEP is scheduled to be held on  
Thursday, July 12, 3:30 p.m., in Room 4426 Main Treasury.

The agenda is as follows:

1. Extraterritoriality.

A working group report to the SIG-IEP on this agenda item is  
attached.

Attendance will be principal, plus one.

  
Donald T. Regan

Attachment

**UNDER SECRETARY OF STATE  
FOR ECONOMIC AFFAIRS  
WASHINGTON**

**SUBJECT: Report on Extraterritoriality**

At the February 2 meeting of the SIG-IEP on extraterritoriality and conflicts of jurisdiction, Secretary Regan directed that a special Under Secretaries group be created under my chairmanship to develop a proposed statement of policy on internal coordination and notice and consultation with foreign governments in cases where significant problems are likely to arise. The attached paper has been approved by State, Treasury, Commerce, Justice, OMB and USTR and is forwarded herewith for review by the SIG-IEP. If the SIG-IEP agrees, I propose that the paper be forwarded to the President with a recommendation that the section entitled "Proposal" be approved and released as a statement of policy regarding the management of these problems.

*Allen Wallis*  
Allen Wallis

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# Press Release

PRESS/A(84)28

Paris, 18th May, 1984

## COMMUNIQUE

1. The Council of the Organisation for Economic Co-operation and Development meeting on 17th-18th May at Ministerial level, agreed upon policies required to strengthen the international trading and financial system, and to extend economic recovery into durable employment-creating growth. . . . .

36. Noting the growing importance and scope of problems arising from the imposition by Member countries of conflicting requirements on multinational enterprises, Ministers agreed to strengthen bilateral and multilateral co-operation in this area in order to avoid or limit the scope of such conflicts. Accordingly they endorsed a set of general considerations and practical approaches to these problems as set out in paragraphs 23-33 of the Review Report. Ministers also noted the concern over the impact of unitary taxation on international investment and the importance of achieving an early resolution of the problem.

Report on the 1984 Review of the 1976 OECD Declaration  
and Decisions on International Investment and Multinational Enterprises

**2. CONFLICTING REQUIREMENTS IMPOSED ON MULTINATIONAL ENTERPRISES**

23. Issues arising from conflicting requirements imposed by Member countries on multinational enterprises were considered by the drafters of the 1976 Declaration and Decisions. Of particular relevance are paragraph 11 of the Introduction to the Guidelines for Multinational Enterprises and paragraph 5 of the Revised Decision of the Council on Intergovernmental Consultations Procedures on the Guidelines. In this context, paragraph 7 of the Introduction to the Guidelines for Multinational Enterprises is also recalled.

24. Concerns arise in particular when a country's legislation or legal requirements with extraterritorial reach conflict with legislation or policies in other countries and affect, for instance, the operations of entities of multinational enterprises located in these countries. The importance and scope of such problems has tended to grow in recent years, this trend reflecting, inter alia, the increasing interdependence of OECD economies. Conduct abroad has an increasing impact on national economies and on the possibilities for avoidance of national laws. Some countries have attempted to control or counteract such developments through the adoption, modification or application of laws and regulations having an extraterritorial reach, whereas some of the countries affected have adopted blocking legislation or have taken blocking actions.

25. All in all, the risk of conflicting requirements being imposed on multinational enterprises by Member countries is viewed to be increasing, the effects of this on the investment climate tending to become more significant.

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This is why the CIME has come to the conclusion that bilateral and multilateral co-operation should be strengthened in that area, to avoid such conflicts or to limit their scope, in the interest of, inter alia, promoting and safeguarding an international environment favourable to the development of trade and investment.

26. For these reasons, the CIME has agreed to the general considerations and the practical approaches set out in paragraphs 27 to 30 below, which Member countries should take into account whenever they consider the adoption, modification or application of laws or regulations which may lead to conflicting requirements being imposed on multinational enterprises.

**a) General Considerations**

27. In contemplating new legislation, action under existing legislation or other exercise of jurisdiction which may conflict with the legal requirements or established policies of another Member country and lead to conflicting requirements being imposed on multinational enterprises, the Member countries concerned should:

- i) Have regard to relevant principles of international law;
- ii) Endeavour to avoid or minimise such conflicts and the problems to which they give rise by following an approach of moderation and restraint, respecting and accommodating the interests of other Member countries (21);
- iii) Take fully into account the sovereignty and legitimate economic, law enforcement and other interests of other Member countries;
- iv) Bear in mind the importance of permitting the observance of contractual obligations and the possible adverse impact of measures having a retroactive effect.

28. Member countries should endeavour to promote co-operation as an alternative to unilateral action to avoid or minimise conflicting requirements and problems arising therefrom. Member countries should on request consult one another and endeavour to arrive at mutually acceptable solutions to such problems.

**b) Practical Approaches**

29. Recalling paragraph 5 of the Revised Decision of the Council on Intergovernmental Consultation Procedures on the Guidelines for Multinational Enterprises, Member countries also recognised that in the majority of circumstances, effective co-operation may best be pursued on a bilateral basis. On the other hand, there may be cases where the multilateral approach could be more effective.

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30. Member countries should therefore be prepared to:

- i) Develop mutually beneficial, practical and appropriately safeguarded bilateral arrangements, formal or informal, for notification to and consultation with other Member countries;
- ii) Give prompt and sympathetic consideration to requests for notification and bilateral consultation on an ad hoc basis made by any Member country which considers that its interests may be affected by any measure of the type referred to under paragraph 27 above, taken by another Member country with which it does not have such bilateral arrangements;
- iii) Inform the other concerned Member countries as soon as practicable of new legislation or regulations proposed by their Governments for adoption which have significant potential for conflict with the legal requirements or established policies of other Member countries and for giving rise to conflicting requirements being imposed on multinational enterprises;
- iv) Give prompt and sympathetic consideration to requests by other Member countries for consultation in the CIME or through other mutually acceptable arrangements. Such consultations would be facilitated by notification at the earliest stage practicable;
- v) Give prompt and full consideration to proposals which may be made by other Member countries in any such consultations that would lessen or eliminate conflicts.

c) Future Work

31. The CIME will continue to serve as a forum for consideration of the question of conflicting requirements, including, as appropriate, the national and international legal principles involved.

32. Member countries should be prepared to assist the CIME in its periodic reviews of the experience with the practical approaches described in paragraph 30 above.

33. The Committee shall periodically invite the Business and Industry Advisory Committee to the OECD (BIAC) and the Trade Union Advisory Committee to the OECD (TUAC) to express their views on matters relating to conflicting requirements.

34. In view of the importance attached to the foregoing considerations, it is proposed that Ministers, in endorsing the conclusions and recommendations of the present Report, make specific mention of the general principles and practical approaches described in paragraphs 27 to 30 above. It is also proposed that the Council Decision on the Guidelines for Multinational Enterprises, already referring to the subject of conflicting requirements imposed on multinational enterprises, be amended to reflect some of these results.



VC/NIC/MI  
NIO/LA  
NIO/ECONOMICS  
NIO/AL--MR LOW  
(F41)

ES/MI # 494

25 June 1984

MEMORANDUM FOR: See Distribution

SUBJECT : Meetings

Type of Meeting	:	<u>SIG-IEP</u>
Date	:	<u>Wednesday, 27 June</u>
Time	:	<u>4:00 p.m.</u>
Place	:	<u>Roosevelt Room</u>
Chaired By	:	<u>Secretary Regan</u>
Principal Only?	:	<u>Plus one</u>
Subject/Agenda	:	<u>(1) Status on Argentina</u> <u>(2) Report on Cartagena</u>
<u> </u>		
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When to Expect Papers	:	<u>Sending papers later today</u>
Time Info Received	:	<u>Per Sonya, Treasury, 2:50 p.m.</u>

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